



COMPTROLLER GENERAL OF THE UNITED STATES  
WASHINGTON, D.C. 20548

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B-119969

September 14, 1973

Mr. Richard R. Henry  
Authorized Certifying Officer  
United States General Accounting Office

Dear Mr. Henry:

Your letter of June 15, 1973, requests an advance decision as to <sup>[Request]</sup> whether a voucher in favor of Mrs. Theodora L. Brandy (for reimbursement of mileage expenses) incurred when commuting between her residence in Silver Spring, Maryland, and the Court House in Rockville, Maryland, while serving on jury duty in Montgomery County, Maryland, may be certified for payment. If such transportation expenses are not reimbursable, you question whether, in the alternative, it would be proper to allow her to retain a portion of the jury duty fee equal to her transportation expenses.

Mileage and related allowances are authorized by 5 U.S.C. 570A(a) only when an employee is engaged on official business for the United States Government. When serving as a juror, Mrs. Brandy was engaged on official business of the Montgomery County Circuit Court Grand Jury and was not engaged on official business for the United States Government. Hence, she would not be entitled to a mileage allowance. See 20 Comp. Gen. 550 (1941), 21 id. 1148 (1942), and B-176863, October 4, 1972, copy enclosed.

With regard to permitting Mrs. Brandy to retain a portion of her jury fee equal to mileage expenses, the propriety of this action would be controlled by State and Federal statutes. In this regard 5 U.S.C. 5515 provides as follows:

"§ 5515. Crediting amounts received for jury or witness service

"An amount received by an employee as defined by section 2105 of this title (except an individual whose pay is disbursed by the Secretary of the Senate or the Clerk of the House of Representatives) or an individual employed by the government of the District of Columbia for service as a juror or witness during a period for which he is entitled to leave under section 6322(a) of this title, or is performing official duty under section 6322(b) of this title, shall be credited against pay payable to him by the United States or the District of Columbia with respect to that period."

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Pursuant to the terms of this statute, we have long held that an employee engaged in jury duty is required to remit all jury fees to the Federal Government, absent evidence that some specific portion of amounts paid by the State for jury service was intended by the State to be reimbursement of travel expenses. G-149898, November 20, 1962, copy enclosed.

The Maryland statutes covering jurors are contained in Article 51 of the Annotated Code of Maryland (ACM), 1957 edition. Section 12, Article 51, ACM, provides:

"§ 12. Compensation of jurors.

"A juror shall receive such compensation and/or reimbursement for expenses of travel incident to jury service as may be now or hereafter provided by law. \* \* \*"

Section 19(a), Article 51 ACM, provides for pay and mileage for jurors as follows:

"Jurors in Washington County shall receive fifteen dollars per day and a reasonable amount, in the discretion of the County Commissioners for each mile over five miles in going to and returning from court; in Queen Anne's County, seven dollars and fifty cents per day; in Caroline, Kent, Somerset and Talbot counties, and in Baltimore City, ten dollars per day, and in Anne Arundel County, fifteen dollars per day, and no extra allowance shall be given either for mileage or overtime in Anne Arundel, Caroline, Montgomery, Somerset and Talbot counties and in Baltimore City; in Carroll County, fifteen dollars per day; and in all other counties except Allegany, Baltimore, Calvert, Charles, Frederick, Garrett, Harford, Howard, Montgomery, Prince George's, St. Mary's and Wicomico counties, five dollars per day for each and every day they shall attend the several courts of this State as jurors and fifteen cents for each mile over five miles for going to and returning from the court, once in each term, to be paid by the counties, respectively, in which courts are held. In Baltimore County, jurors shall receive per diem compensation in such amount as shall be set, from time to time, by the judges of the Circuit Court of Baltimore County. Jurors in Frederick County and Montgomery County shall receive fifteen dollars (\$15.00) per day for each and every day they shall attend the circuit court

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within their respective counties as jurors and in Frederick County a reasonable amount in the discretion of the County Commissioners, for each mile going to and returning from the court." (Emphasis supplied.)

As can be seen from the language above quoted, section 12 states that jurors are to be paid in one of three ways. They shall either be paid for their services or reimbursed for their travel expenses or they shall receive both pay and reimbursement. Section 19 sets forth the rates of pay for jurors in Maryland's counties providing variously for set dollar amounts; set dollar amounts as expense money for hours served; and set dollar amounts with additional amounts for mileage. With reference to Montgomery County, section 19(a) not only states that jurors for that county are to receive \$15 for each day they attend court but provides further that no extra allowance shall be given for either mileage or overtime. Hence, the portion of the statute applicable to Montgomery County provides for pay and specifically precludes extra allowance for travel expenses. Cf. the allowances provided for the counties of Washington and Frederick.

You have included a letter dated April 30, 1973, to the Grand Jury Foreman signed by Ralph G. Shure, Chief Judge, Sixth Judicial Circuit, Rockville, Maryland, explaining entitlement of Montgomery County Circuit Court jurors to pay and mileage expenses which reads as follows:

"Reference is made to inquiries concerning pay and mileage for jurors.

"Please be informed that Section 17 of Article 51 provides that jurors in Montgomery County shall receive \$15.00 per day for each and every day they shall attend the Circuit Court. There is no provision for any extra sum for mileage, so this \$15.00 includes all expenses for mileage or overtime."

As we understand Judge Shure's letter, we do not think his explanation is inconsistent with our interpretation of section 19, Article 51, ACh. In view of the language in section 19 expressly providing for mileage expenses for certain other counties we view the Judge's letter as merely indicating that the \$15 amount covers everything with no set sum specified for any mileage or any other item.

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In summary, it would not be proper to permit Mrs. Brandy to retain any part of her jury pay as travel or mileage expenses since no part of her juror's pay was specifically intended for the purpose of travel or mileage expense reimbursement. Accordingly, the voucher, with accompanying papers, is returned herewith and may not be certified for payment.

Sincerely yours,

E. H. Morse, Jr.

For the Comptroller General  
of the United States

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